

Appl. No. 10/706,103
Docket No. 9118M2
Amdt. dated October 19, 2007
Reply to Office Action mailed on September 7, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1-4 and 8-17 are pending in the present application. No additional claims fee is believed to be due. Claims 1, 12, and 16 have been amended. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Objections

The Office Action objects to claims 1, 12, and 16 for having more than one period in a claim. Accordingly, Applicants have amended claims 1, 12, and 16 so that each claim has only one period. Applicants respectfully request that the objections be withdrawn.

Rejection Under 35 USC §112, First Paragraph

The Office Action rejects claims 1-4 and 8-17 under 35 USC 112, first paragraph, for failing to comply with the written description.

First, the Office Action states that there is no support for the claimed range of 35% to 65% for the particulate retentive agent. Applicants respectfully disagree. The specification states that the level of the particulate retentive agent may be "from about 30% to about 65%."¹ Therefore, the claimed range of 35% to 65% is included within the range in the specification and properly supported. *In re Werthem*,² involved the situation where applicants disclosed a range of solids content of 25%-60%, which was held to support a later-claimed range of 35%-60%. The court held that where applicants disclose a range, they have taught possession of all values within that range, all that is necessary for written description under §112.

¹ Page 10, line 24.

² 541 F.2d 257, 191 USPQ 90 (CCPA 1976).

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The Office Action further states that the phrase "brushing the teeth with a viscous slurry formed from a portion of said composition that is not deposited on the teeth" is not properly supported. While not agreeing with that assessment, Applicants have amended claim 16 to include language explicitly stated on page 6, lines 18-20. Accordingly, Applicants respectfully request that the rejections be withdrawn.

Conclusion

This response represents an earnest effort to place the present application in proper form. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claims are respectfully requested.

Respectfully submitted,

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Date: October 19, 2007

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